

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Statement of Issues Against:

MARCY ELIZABETH JOHNSON

Respondent

Case No. 2012-480

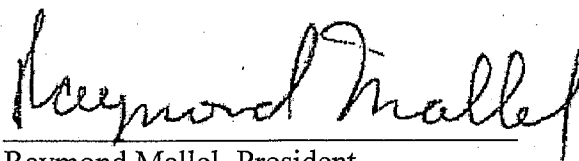
OAH No. 2012060349

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary order for Public Reprimand is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on **December 7, 2012.**

IT IS SO ORDERED **November 8, 2012.**



Raymond Malle, President
Board of Registered Nursing
Department of Consumer Affairs
State of California

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9 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
10 **STATE OF CALIFORNIA**

11 In the Matter of the Statement of Issues
12 Against:

13 **MARCY ELIZABETH JOHNSON**

14 Respondent.

Case No. 2012-480

OAH No. 2012060349

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER FOR PUBLIC
REPROVAL**

[Bus. & Prof. Code § 495]

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19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
20 entitled proceedings that the following matters are true:

21 **PARTIES**

22 1. LOUISE R. BAILEY, M.ED., RN (Complainant) is the Executive Officer of the
23 Board of Registered Nursing (Board). She brought this action solely in her official capacity and
24 is represented in this matter by Kamala D. Harris, Attorney General of the State of California, by
25 Geoffrey S. Allen, Deputy Attorney General.

26 2. Respondent Marcy Elizabeth Johnson (Respondent) is representing herself in this
27 proceeding and has chosen not to exercise her right to be represented by counsel.

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3. On or about May 20, 2011, the Board received an Online Endorsement Applicant Identification Form (Application) for a registered nurse license from Respondent. On or about May 10, 2011, Respondent certified under penalty of perjury to the truthfulness of all statements, answers, and representations in the Application. The Board denied the Application on August 17, 2011.

JURISDICTION

4. Statement of Issues No. 2012-480 was filed before the Board, Department of Consumer Affairs, and is currently pending against Respondent. The Statement of Issues and all other statutorily required documents were properly served on Respondent on March 5, 2012. Respondent timely filed her request for a hearing regarding the denial of the Application. A copy of the Statement of Issues is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, and understands the charges and allegations in the Statement of Issues. Respondent has also carefully read, and understands the effects of this Stipulated Settlement and Disciplinary Order for Public Reprimand.

6. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Statement of Issues; the right to be represented by counsel at her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in the Statement of Issues.

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9. Respondent agrees that the Application is subject to denial and she agrees to be bound by the Board's terms as set forth in the Disciplinary Order below.

CONTINGENCY

10. This stipulation shall be subject to approval by the Board. Respondent understands and agrees that counsel for Complainant and the staff of the Board may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order for Public Reproval shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

11. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order for Public Reproval, including facsimile signatures thereto, shall have the same force and effect as the originals.

12. This Stipulated Settlement and Disciplinary Order for Public Reapproval is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order for Public Reapproval may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

13. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that the Application of Respondent for a Registered Nurse License is hereby granted. A Registered Nurse License shall be issued to Respondent upon

1 successful completion of all licensing requirements. Said License shall immediately, by way of
2 letter from the Board's Executive Officer, be publicly reprovved. The letter shall be in the same
3 form as the letter attached as Exhibit B to this stipulation.

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ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order for Public Reapproval. I understand the stipulation and the effect it will have on my Application and registered nurse license. I enter into this Stipulated Settlement and Disciplinary Order for Public Reapproval voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Registered Nursing.

DATED:

8/3/12


MARCY ELIZABETH JOHNSON
RespondentENDORSEMENT


The foregoing Stipulated Settlement and Disciplinary Order for Public Reapproval is hereby respectfully submitted for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

Dated:

8/3/12

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
ARTHUR D. TAGGART
Supervising Deputy Attorney General


GEOFFREY S. ALLEN
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Statement of Issues No. 2012-480

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2 ARTHUR D. TAGGART
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3 GEOFFREY S. ALLEN
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Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Statement of Issues
Against:

12 **MARCY ELIZABETH JOHNSON**
13 **4020 Uniontown Road**
14 **Lotus, CA 95651**

15 Respondent.

Case No. **2012-480**

STATEMENT OF ISSUES

16
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Statement of Issues solely
20 in her official capacity as the Interim Executive Officer of the Board of Registered Nursing
21 ("Board"), Department of Consumer Affairs.

22 **Application Information**

23 2. On or about May 20, 2011, the Board received an Online Endorsement Applicant
24 Identification Form for a registered nurse license from Marcy Elizabeth Johnson ("Respondent").
25 On or about May 10, 2011, Marcy Elizabeth Johnson certified under penalty of perjury to the
26 truthfulness of all statements, answers, and representations in the application. The Board denied
27 the application on August 17, 2011.

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STATUTORY PROVISIONS

3. Section 2736 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may deny a license when it finds that the applicant has committed any acts constituting grounds for denial of licensure under Code section 480.

4. Code section 480 states, in pertinent part:

(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

(3) (A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

5. Code section 2761, states, in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct...

(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.

6. Code section 2762 states, in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof.

1 **FIRST CAUSE FOR DENIAL OF APPLICATION**

2 **(Criminal Conviction)**

3 7. Respondent's application is subject to denial pursuant to Code sections 480,
4 subdivision (a)(1) and 2761, subdivision (f), in that Respondent has been convicted of the
5 following crime that is substantially related to the qualifications, functions, or duties of a
6 registered nurse:

7 a. On or about December 29, 2010, in the County Court, Mesa County, Colorado, in
8 the matter entitled *People vs. Marcie E. Johnson*, 2010, Case No. 2010 T 002378 Respondent was
9 convicted following her plea of guilty to a violation of Colorado Statute No. 42-4-1301,
10 subdivision (1)(b) (driving under the influence), a misdemeanor. The circumstances of the crime
11 are that on June 11, 2010, Respondent was arrested for driving under the influence of alcohol
12 following a traffic stop. Respondent's blood alcohol level measured .16%.

13 **SECOND CAUSE FOR DENIAL OF APPLICATION**

14 **(Committed Acts Which if Done by a Licentiate Would Constitute Cause for Discipline)**

15 8. Respondent's application is subject to denial pursuant to Code section 480
16 subdivision (a)(3)(A), in that Respondent committed acts which if done by a licentiate constitute
17 cause for discipline pursuant to Code section 2761, subdivisions (a) and (f), and Code section
18 2762, subdivisions (b) and (c).

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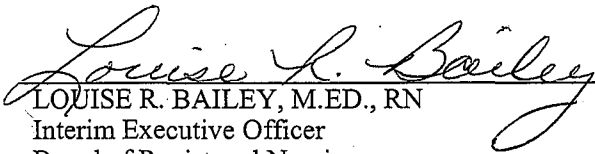
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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Denying the application of Marcy Elizabeth Johnson for a Registered Nurse License; and,
2. Taking such other and further action as deemed necessary and proper.

DATED: February 22, 2012


LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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Exhibit B

Letter of Public Reproval in Case No. 2012-480



STATE AND CONSUMER SERVICES AGENCY • GOVERNOR EDMUND G. BROWN JR.

Board of Registered Nursing
P O Box 944210, Sacramento, CA 94244-2100
P (916) 322-3350 | www.rn.ca.gov
Louise R. Bailey, M.ED., RN, Executive Officer



November 8, 2012

Marcy Elizabeth Johnson
4020 Uniontown Road
Lotus, CA 95651

RE: LETTER OF PUBLIC REPROVAL
In the Matter of the Statement of Issues Against:
Marcy Elizabeth Johnson, Applicant for Registered Nurse License


Dear Ms. Johnson:

On February 22, 2012, the Board of Registered Nursing, Department of Consumer Affairs, State of California, filed a Statement of Issues regarding your Application for a Registered Nurse License. The Statement of Issues alleged that your Application was subject to denial under Business and Professions Code sections 480 subdivision (a)(3)(A) [committed acts which if done by licensee would constitute cause for discipline] and 2761 subdivision (f) [criminal conviction]. More specifically, it alleged that you engaged in unprofessional conduct when on December 29, 2010, you were convicted of driving while ability impaired.

Taking into consideration that your conduct appears to have been an isolated incident, that you have complied with the terms of your criminal probation, you submitted a positive work evaluation, and you submitted letters of recommendation, and that there are other mitigating circumstances in this case that support the determination that you are safe to practice registered nursing, the Board has decided to grant your application with a public reproof.

Accordingly, in resolution of this matter under the authority provided under Business and Professions Code section 495, the Board of Registered Nursing, Department of Consumer Affairs issues this letter of public reproof.

Sincerely,


LOUISE R. BAILEY, M.ED., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California